



भारत का राजपत्र

The Gazette of India

प्रताधारण

EXTRAORDINARY

भाग II-खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

लं. 54] नई विल्सनी, शुक्रवार, नवम्बर 21, 1969/30 कार्तिक, 1891

No. 54] NEW DELHI, FRIDAY, NOVEMBER 21, 1969/KARTIKA 30, 1891 SAKA

इस भाग में भिन्न पृष्ठ संख्या वाली जाती है जिससे कि यह भ्रमण संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 21st November, 1969:—

BILL No. 97 of 1969

A Bill to amend the Commissions of Inquiry Act, 1952.

Be it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. This Act may be called the Commissions of Inquiry (Amendment) Act, 1969. Short title.

2. In section 3 of the Commissions of Inquiry Act, 1952 (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The appropriate Government may, at any stage of an inquiry by the Commission,—

(a) fill any vacancy which may have arisen in the office of a member of the Commission (whether consisting of one or more than one member); or

(b) increase the number of members of the Commission.”.

3. In section 4 of the principal Act, in clause (a), for the words “summoning and enforcing the attendance of any person”, the words “summoning and enforcing the attendance of any person from any part of the territories to which this Act extends” shall be substituted.

Amend-
ment of
section
3.

Amend-
ment of
section
3.

Amend-
ment of
section 4.

Amend-
ment of
section 5.

4. In section 5 of the principal Act, in sub-section (2), the words and figures "and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 of the Indian Penal Code" shall be inserted at the end.

45 of 1860.

Inser-
tion of
new sec-
tion 5A.

5. After section 5 of the principal Act, the following section shall be inserted, namely:—

Power
of Com-
mission to
utilise

"5A. (1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer or investigation agency—

the ser-
vices of
certain
officers
and inves-
tigation
agencies
for con-
ducting
investi-
gation
pertain-
ing to
inquiry

(a) in the case of a Commission appointed by the Central Government, of the Central Government, or

(b) in the case of a Commission appointed by the State Government, of the State Government,

with the concurrence of the Central Government or the State Government, as the case may be.

(2) The officer or agency whose services are utilized under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon (hereafter in this section referred to as the investigation report) to the Commission within such period as may be specified by the Commission in its behalf.

(3) The Commission shall satisfy itself about the correctness of the facts stated and the conclusions, if any, arrived at in the investigation report submitted to it under sub-section (2) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted, or assisted in the investigation) as it deems fit.".

Inser-
tion of
new sec-
tion
6A.

6. After section 6 of the principal Act, the following section shall be inserted, namely:—

Persons
not ob-
liged to
dis-
close sec-
ret pro-
cess of
manufac-
ture of
goods.

"6A. Nothing in this Act shall be deemed to compel any person giving evidence before the Commission to disclose any secret process of manufacture of any goods."

Amend-
ment
of sec-
tion 8.

7. In section 8 of the principal Act the words "and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its member," shall be omitted.

8. After section 8 of the principal Act, the following section shall be inserted, namely:—

“8A. (1) Where the Commission consists of two or more members, it may act notwithstanding the absence of the Chairman or any other member or any vacancy among its members:

Provided that if the appropriate Government notifies the Commission that the services of the Chairman have ceased to be available, the Commission shall not act until a new Chairman is appointed.

(2) Where during the course of an inquiry before a Commission, a change has taken place in the constitution of the Commission by reason of any vacancy having been filled or by an increase in the number of members of the Commission or by any other reason, it shall not be necessary for the Commission to commence the inquiry afresh and the inquiry may be continued from the stage at which the change took place.”.

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. (1) If any person, by words either spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Commission or any member thereof into disrepute, he shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.

(2) The provisions of section 198B of the Code of Criminal Procedure, 1898 shall apply in relation to an offence under sub-section (1) as they apply in relation to an offence referred to in sub-section (1) of the said section 198B, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction,—

(a) in the case of a Commission, or member of a Commission, appointed by the Central Government, of the Central Government; or

(b) in the case of a Commission, or member of a Commission, appointed by the State Government, of the State Government.”.

10. In section 12 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should

Insert-
tion of
new sec-
tion 8A.

Inquiry
not to
be inter-
rupted
by rea-
son of
vacancy
or change
in the
consti-
tution
of Com-
mission,

Insert-
tion of
new sec-
tion 10A.

Penalty
for acts
calcula-
ted to
bring
the Com-
mission
or any
member
thereof
into dis-
repute.

not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

11. The principal Act shall, as from the commencement of this Act, extend to, and come into force in, the Kohima and Mokokchung districts in the State of Nagaland.

Extension of
Act 60 of
1952 to

Kohima
and
Mokok-
chung
districts
in Naga-
land.

STATEMENT OF OBJECTS AND REASONS

Certain difficulties and deficiencies experienced in the working of the Commissions of Inquiry Act, 1952 were referred to the Law Commission for suggesting suitable amendments to the Act. Taking into account the importance of the Act and the need for a proper system of inquiries, the Law Commission undertook a comprehensive examination of the entire Act and made a number of recommendations in their Twenty-Fourth Report for the revision of the Act in several respects.

2. The main recommendations of the Law Commission have generally been accepted by Government after considering the views expressed on those recommendations by the State Governments, Union territory Administrations and the Ministries of the Government of India. The Bill seeks to give effect to such recommendations of the Law Commission as are acceptable.

3. Though the Commissions of Inquiry Act, 1952 has been in force in the Tuensang district in the State of Nagaland, it has not been extended to the other two districts of Kohima and Mokokchung in that State. The Bill also seeks to extend the Act to these two districts.

4. The notes on clauses explain in detail the provisions of the Bill.

NEW DELHI;

Y. B .CHAVAN.

The 14th October, 1969.

Notes on Clauses

(In these notes, the expression "Report" means the Twenty-Fourth Report of the Law Commission of India on the Commissions of Inquiry Act, 1952).

Clause 2.—Judging from the experience gained in the working of the Commissions of Inquiry Act, 1952, it is considered desirable to provide expressly for the filling up of vacancies in the membership of the Commission and for increase in the number of members thereof, whenever the Government thinks it necessary or expedient to do so. The clause seeks to insert a new sub-section to section 3 of the Act for the purpose. (Vide paragraph 26 of the Report).

Clause 3.—Section 4 of the Act authorises the Commission to summon and enforce the attendance of any person. It does not, however, specify the territorial jurisdiction for the Commission in this behalf and, consequentially, it may be argued that the restriction under Order XVI, rule 19 of the Code of Civil Procedure, 1908, would be attracted, since, under section 4, a commission, in summoning witnesses, has the same powers as a civil court. In view of the different nature of the work assigned to a commission of inquiry, it is considered that this restriction should not apply to commissions appointed under the Act. The clause seeks to amend section 4 suitably so as to empower the Commission to summon and enforce the attendance of any person from any part of the territories to which the Act extends. (Vide paragraph 27 of the Report).

Clause 4.—This clause seeks to amend sub-section (2) of section 5 of the Act casting an obligation on the person, required by the Commission to furnish any information under that sub-section, to furnish such information. (Vide paragraph 28 of the Report).

Clause 5.—This clause seeks to insert a new section 5A in the Act. Under this new section, the Commission is empowered to utilise the services of any officer or investigation agency of the Central Government (in the case of a commission appointed by the Central Government) or of the State Government (in the case of a commission appointed by the State Government). Provision has also been made to the effect that the officer or agency, whose services are utilised, shall investigate into any matter pertaining to an inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf. The section further provides that the Commission shall satisfy itself about the correctness of the facts stated and the conclusions, if any, arrived at in the report and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted, or assisted in, the investigation), as it deems fit. (Vide paragraph 17 of the Report).

Clause 6.—It is considered desirable to make it clear, in the interests of trade, that nothing in the Act shall render it compulsory for any person giving evidence to disclose any secret process of manufacture of any

goods. The clause seeks to insert a new section 6A in the Act for the purpose. (Vide paragraph 32 of the Report).

Clauses 7 and 8.—Clause 8 seeks to insert a new section 8A in the Act providing that an inquiry shall not be interrupted by reason of vacancy or change in the constitution of the Commission. Provision has also been made to the effect that if the services of the Chairman have ceased to be available, the Commission shall not act until a new Chairman is appointed. (Vide paragraph 34 of the Report). The amendment made to section 8 of the Act by clause 7 is a consequential one.

Clause 9.—This clause seeks to insert a new section 10A in the Act providing for a penalty for acts calculated to bring the Commission or any member thereof into disrepute. The penalty proposed is imprisonment for a term which may extend to two years or fine or both. The provisions of section 198B of the Code of Criminal Procedure, 1898 have been made applicable to an offence under this new section subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the appropriate Government. (Vide paragraph 30 of the Report).

Clause 10.—This clause seeks to insert a new sub-section to section 12 of the Act making provision for the laying of rules made under the Act before Parliament.

Clause 11.—The Commissions of Inquiry Act, 1952 does not extend to the districts of Kohima and Mokokchung in the State of Nagaland though it extends to the Tuensang district in that State. The clause seeks to extend the Act to the aforesaid Kohima and Mokokchung districts also.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to empower Government, at any stage of inquiry by a Commission, to increase the number of members of the Commission. Such increase as and when made in respect of a Commission appointed by the Central Government will entail extra expenditure from the Consolidated Fund of India. Government would ordinarily determine the composition of a Commission well before the commencement of the inquiry and it may normally not be necessary for them to increase the number of members of a Commission after the latter has commenced its inquiry. The provision is more in the nature of an enabling power which may have to be used in exceptional circumstances. The extra expenditure involved will depend on the nature and duration of the inquiry, the individual who may be selected for appointment as additional member and the remuneration to be fixed for him as a member of the Commission of Inquiry.

2. Clause 3 of the Bill seeks to empower a Commission of Inquiry to summon and enforce the attendance of any person as a witness from any part of India. This may call for some extra expenditure on the grant of travelling and daily allowances to witnesses.

3. Clause 5 of the Bill seeks to empower a Commission of Inquiry to utilise the services of certain officers and investigation agencies for conducting investigation pertaining to an inquiry. Such assistance may possibly be made available to the Commission without entailing any extra expenditure. Depending upon the nature and duration of the investigation required, occasions could, however, arise when it may become necessary to incur extra expenditure on the appointment of, or replacement for, the officers whose services are made available to the Commissions of Inquiry.

4. No accurate estimate can be made of the extra expenditure from the Consolidated Fund of India which may result from the proposed amendments. It is, in any case, not likely to exceed rupees one lakh a year. No non-recurring expenditure is involved.

S. L. SHAKDHER,
Secretary.